

Automated Decision-Making Systems (ADS) Workgroup Meeting

October 21, 2021

Agenda for October 21, 2021 Meeting

Agenda

- 2:30 Welcome and administrative updates – Katy Ruckle
- 2:40 Review and Discussion of Report Draft and Recommendations – All members
- Points of discussion
- Guiding Principles – ACLU
 - Findings section - ACLU
 - Policy – Jon Pincus/Maria Angle
 - Risk Rating – Kirsta Glenn, LNI
 - Revised recommendations
- 4:00 Other Workgroup Discussion – All members
- 4:10 Answers to Open Tasks – Assigned work group members
- 4:20 Open Discussion
- 4:30 Adjourn

O
P
D
P

Welcome and Administrative Updates

O
P
D
P

Administrative Updates

- Timeline Reminder



- Need to either cancel or reschedule Dec. 2, 2021 meeting
- Meeting next week - Thursday, October 28, 2021???



O
P
D
P

Review and Discussion of Report Draft

O
P
D
P

Preliminary Draft Report

Distributed via email to work group members
 October 4, 2021

Current Table of Contents (right)

Workgroup Member Input Received:

- **ACLU**

Points of discussion

- Guiding Principles – ACLU
- Findings section - ACLU
- Policy – Jon Pincus/Maria Angle
- Risk Rating – Kirsta Glenn, LNI
- Revised recommendations

- **David Luxton**

- Background.....
- Purpose.....
- Membership.....
- Proviso Directions.....
 - Meetings**.....
 - System selection**.....
 - Methods of ADS Workgroup**.....
 - System Review**.....
- Recommendations.....
 - Challenges for policy change considerations**.....
 - Impact of recommendations**.....
 - Other considerations**.....
- Relevant Proviso Details.....
 - Definition of automated decision system**.....
 - Authorizing statute**.....
- Contact.....

O
P
D
P

Report Content Discussion

- **Guiding Principles – ACLU**
- The prioritization framework should include criteria such as whether the system: (1) creates significant effects on natural people, (2) affects a large number of natural people, or (3) involves a high risk of error
- **Findings section - ACLU**

O
P
D
P

Report Content Discussion

- Policy – Jon Pincus/Maria Angle

O
P
D
P

Report Content Discussion

- Risk Rating – Kirsta Glenn, LNI

O
P
D
P

Risk Rating Idea

Impact

- **low:** decision does not impact legal rights or the provision of services or scrutiny that could lead to an impact on legal rights or services
- **medium:** decision impacts processing, relatively minor services or legal rights
- **high:** decision can have a major impact on the provision of services or legal rights

Likelihood

- **low:** decision directly follows federal or state regulations or follows adopted policy or rule
- **medium:** decision rule created with public review
- **high:** internally created decision rule or proprietary

Complexity

- **low:** simple decision rule
- **medium:** simple calculation of existing data elements (ie, a weighted average)
- **high:** complex algorithm, estimation, machine learning, etc

	Low impact	Medium impact	High impact
Low likelihood	5	4	4
Medium likelihood	4	3	3
High likelihood	4	2	1

Report Content Discussion

Revised recommendations - Katy

O
P
D
P

Draft Recommendation #1

As a part of the procurement process, assess new ADS systems procured by the state ~~that are intended to profile or predict a natural person's behavior~~. The assessment should include evaluation of the potential impacts of the automated decision-making on the risk to rights and freedoms to an "identified or identifiable natural person."

- "Identified or identifiable natural person" means an individual who can be readily identified, directly or indirectly.
- **Notes: Recommendation #1 from 10-7-21 discussion**
 - The workgroup generally concurs on requiring an assessment of ADS, including existing systems, those that are internally developed and those that are procured by the state.
 - The definition and scope of ADS should neither be so broad to capture systems that only affect a small number of individuals and/or have little effect nor so narrow that it potentially excludes systems with greater impacts. Concerns on definition and scope highlighted the exclusion of ADS whose algorithms were developed in accordance with legislation or were developed from previously manual processes (i.e., "paper and pencil" calculations), as these systems may still be ~~biased or have unintended consequences.~~

Draft Recommendation # 2

Automated decision-making systems used by the state that produce legal affects on identified or identifiable natural persons should be assessed if they are processing **sensitive identifiable** data on a large scale.

- **Notes: Recommendation #1 from 10-7-21 discussion**
 - The workgroup would like to acknowledge issues related to the practical application of recommendations and emphasize the prioritization of resources towards assessing ADS that affect the largest populations and/or have the greatest impact on individuals. However, the Final Report should be drafted in a way that does not inadvertently exclude ADS that do not process data on a large scale.
 - Definitions for terms, such as “sensitive data,” should be clearly defined in the Final Report.

Draft Recommendation #3

Require transparency of use, procurement, and development of automated decision-making systems that produce legal affects on identified or identifiable natural persons.

- **Notes: Recommendation #3 from 10-7-21 discussion**
 - Transparency requirements should consider different levels. For some systems, full transparency may be possible. However, some ADS and their code may be protected by intellectual property/proprietary use agreements, by policy, for public safety concerns, etc. The report should acknowledge these limitations and describe other mechanisms for transparency, including different levels for various stakeholder groups (e.g., system owners, third party assessors, the public) in addition to the publication of system design descriptions, audit results or other insights, as appropriate.

O
P
D
P

Draft Recommendation #4

The state should adopt a framework to evaluate state agency use of ADS technology or use of artificial intelligence-enabled profiling to determine whether or not its use should be prohibited.

- **Notes: Recommendation #4 from 10-7-21 discussion**

- The workgroup has not achieved a consensus on the definition of “artificial intelligence” or “artificial intelligence-enabled profiling.” The legislature should be alerted to the lack of consensus and concerns related to changing and emerging technologies.
- An evaluation framework should be proposed to help guide what prohibitions may be appropriate rather than broad recommendations for prohibition by the workgroup.

O
P
D
P

Draft Recommendation #5

Ongoing monitoring or auditing should be performed on ADS systems that have legal effects on identified or identifiable natural person's to ensure they do not have differential effects that result from changing regulations or changing populations over time or discriminate against an individual, or treat an individual less favorably than another, in whole or in part, on the basis of one or more factors enumerated in RCW 49.60.010.

- **Notes: Recommendation #5 from 10-7-21 discussion**

- Ongoing monitoring and auditing should not only consider discrimination that is illegal but also differential effects that result from changing regulations or changing populations over time.
- The Final Report should capture triage for assessments that highlight potential issues of bias, large data processing, or significant impacts.

Draft Recommendation #6

Require training of state employees who develop or procure ADS systems as to risks of automation bias.

O
P
D
P

Workgroup Discussion

O
P
D
P

Answers to Open Tasks – Assigned work group members

O
P
D
P

Workgroup Open Task Status Update

Action Item*	Description	Person Responsible	Deadline
07.01	Lead the drafting of a section describing ADS principles and findings section featured in previous discussions, slides, notes and presentations by subject matter experts.	Jennifer Lee	10/21/21 – Completed – draft materials distributed to workgroup members 10/19 and 10/21.
07.02	Lead the drafting of a section on the ADS landscape and a discussion of jurisdictional ADS legislative updates.	Jon Pincus Maria Angel	10/21/21 - Completed – draft materials distributed to workgroup members 10/19

O
P
D
P

Workgroup Open Task Status Update

Action Item*	Description	Person Responsible	Deadline
06.01	Provide the workgroup with additional resources and insight on the Risk Needs Responsivity Model and its relevance to other risk assessments.	Courtney Bagdon-Cox	10/21/21: Completed – materials provided to be distributed to workgroup – See links next slide and .pdfs on website for 10-7-21 mtg materials
06.02	Further discuss ADS report and recommendations in small groups if needed.	ADS Workgroup, Small Group TBD	10/21/21: Ongoing
06.03	Contribute towards report writing.	ADS Workgroup, Small Group TBD	11/01/21: Ongoing

O
P
D
P

Action Item 6.01 from DOC re WA One system

Drake, E. (2014). Predicting criminal recidivism: A systematic review of offender risk assessments in Washington State (Doc. No. 14-02-1901). Olympia: Washington State Institute for Public Policy.

https://www.wsipp.wa.gov/ReportFile/1554/Wsipp_Predicting-Criminal-Recidivism-A-Systematic-Review-of-Offender-Risk-Assessments-in-Washington-State_Report.pdf

Knoth, L., & Hirsch, M. (2020). Washington Offender Needs evaluation (Washington ONE): Evaluating community contact impacts (Document Number 20-11-1901). Olympia: Washington State Institute for Public Policy.

https://www.wsipp.wa.gov/ReportFile/1730/Wsipp_Washington-Offender-Needs-Evaluation-Washington-ONE-Evaluating-Community-Contact-Impacts_Report.pdf

Bonta, J., & Andrews, D.A., (2018). Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation. Public Safety Canada. <https://www.publicsafety.gc.ca/cnt/rsracs/pblctns/rsk-nd-rspnsvty/index-en.aspx>

Hamilton, Z., Kigerl, A., & Routh, D., (2016). The strong-r pilot assessment study: Washington state department of corrections. The Washington State University Department of Criminal Justice & Criminology, Institute for Criminal Justice. (see pdf in meeting materials posted)

Open Discussion

O
P
D
P

Thank you!

O
P
D
P